

ENVIRONMENTAL PROTECTION COMMISSION[567]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.474(3)“d,” the Environmental Protection Commission proposes to amend Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

Notice of Intended Action to rescind paragraph 135.5(1)“e” and adopt a new paragraph 135.5(1)“e” in lieu thereof was published in the Iowa Administrative Bulletin on January 9, 2013, as **ARC 0560C**. The amendment was also Adopted and Filed Emergency and published as **ARC 0559C** on the same date. This Amended Notice of Intended Action proposes to rescind paragraph 135.5(1)“e” that was Adopted and Filed Emergency and published under Notice of Intended Action and to adopt a new paragraph 135.5(1)“e” in lieu thereof that changes certain leak detection and notification requirements applicable to unstaffed facilities operating underground storage tank (UST) systems with pressurized piping. “Unstaffed facilities” are those facilities that do not have an operator present on site at all times when the UST system is operating and available to dispense fuel to a customer.

Paragraph 135.5(1)“e” proposed herein allows current in-line leak detection methods to be used when the UST facility is unattended, with additional requirements to ensure that detected releases are addressed. The paragraph allows for immediate shutdown of the submersible pump when a release is detected. In the alternative, the paragraph allows for the restriction of the flow of product or the triggering of an audible or visual alarm when a leak is detected and either notification to or a daily visit by the facility’s operator or designee. Notification can occur either by immediate electronic communication of a release from the leak detection monitor or by signage at the site with a telephone number directing the customer to call the Class B operator or designee when a potential release is indicated.

This rule making is the result of working with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective. The Notice of Intended Action published on January 9, 2013, as **ARC 0560C** had extended the deadline to January 1, 2014, for unstaffed facility owners to comply with the existing 135.5(1)“e” requirements and allowed time for the Department and stakeholders to work together to address concerns raised following emergency adoption of the existing paragraph.

The Department conducted four stakeholder meetings to discuss and receive suggestions for meeting the intent of the paragraph. The purpose of the meetings was to work with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective. Based on extensive public comment, it was determined that an extensive revision to the paragraph would be required. Because of the extensive revision required, the rule making commenced in **ARC 0560C** is amended with this Amended Notice of Intended Action.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before August 13, 2013. Such written materials should be sent to Director Chuck Gipp, c/o Paul Nelson, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or e-mail paul.nelson@dnr.iowa.gov.

Oral or written comments will also be accepted at a public hearing which will be held on August 13, 2013, at 1 p.m. in Conference Room 5W at the Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

After analysis and review of this rule making, a positive impact on jobs could exist as the new requirements will allow for compliance that is less financially burdensome to the regulated community.

This amendment is intended to implement Iowa Code sections 455B.474 and 455B.474A.

The following amendment is proposed.

Rescind paragraph 135.5(1)“e” and adopt the following **new** paragraph in lieu thereof:

e. Any UST facility that uses pressurized piping and dispenses product in the absence of a Class A, B, or C operator shall comply with the following requirements:

(1) Employ automatic line leak detectors that do one or more of the following:

1. Shut down the submersible pump when a leak is detected.
2. Restrict the flow of product when a leak is detected.
3. Trigger an audible or visual alarm when a leak is detected.

(2) At facilities implementing 135.5(1)“e”(1)“2” or “3,” the facility’s operator shall be notified or shall conduct a visit through one of the following methods:

1. Notification of the Class B operator by immediate electronic communication.
2. Signage directing the customer to contact the Class B operator or a designated contact person.

The sign must be immediately visible to the customer and state that slow flow or an audible or visual alarm is an indication of a possible release. The sign must provide a 24-hour telephone number of the Class B operator or designee and direct the customer to stop dispensing product.

3. Daily visit to the site by a Class A, B, or C operator or designee. Visits shall include observation of every automatic line leak detector for shutdown, alarm, or restricted flow conditions. Methods of observing for restricted flow conditions may include dispensing product into a proper container or personal vehicle, observing a customer dispense product into a vehicle, or another method approved by the department. Owners and operators shall maintain an onsite log of site visits to demonstrate compliance with this provision. The log shall include the name of the observer and method used to observe the status of the automatic line leak detectors.

(3) All UST facilities subject to 135.5(1)“e” must comply with its provisions by July 1, 2014.